[APPELLATE CRIMINAL JURISDICTION]
CUSSEN, J.
September 27, 1935.

BACHI BIN ABDULLAH.....Appellant

v.

PUBLIC PROSECUTOR.....Respondent

[SELANGOR MAGISTRATE'S CRIMINAL APPEAL No. 31 of 1935]

Security for good behaviour—The Criminal Procedure Code, 1918, section 69—Previous convictions.

A record of past convictions, by itself alone, is not sufficient to justify an order to give security under section 69 of the Criminal Procedure Code, 1926.

The Magistrate must be satisfied that the accused is an habitual offender at the time of making the order, and some evidence, which will vary according to the circumstances of each particular case, must be given to cover the period from the last conviction.

Appellant in person.

H. C. Willan, Deputy Legal Adviser for the respondent.

CUSSEN, J.—The appellant has a record of convictions extending over a long period—and including several convictions for theft.

He was last convicted in Kuala Lumpur on the 2nd March, 1934, of theft and sentenced to 6 months R.I., and so was discharged from prison on the 2nd September, 1934.

On the 27th August, 1935 he was charged and tried before the Magistrate, Kuala Lumpur, on several charges of dishonestly retaining property and was acquitted.

He was arrested again by the Police on the following day (28th August) and produced before the same Magistrate under section 69 (a) of the Criminal Procedure Code 1926 as being "an habitual thief."

The only evidence produced by the prosecution was the record of past convictions, and, on this alone, as he states, the Magistrate made an order to give security for good behaviour under section 69(a) of the Criminal Procedure Code.

In my opinion a record of past convictions, by itself alone, is never sufficient to justify an order to give security.

The Magistrate must be satisfied that the person is an habitual thief at the time of making the order, and some evidence must be given to cover the period from the last conviction up to the present time: in the present case a period of nearly one year. The amount and nature of such add tional evidence will vary according to the circumstances of each individual case, but something there always must be.

"The mere fact of a previous conviction or of previous convictions of offences involving dishonesty is not sufficient to justify the putting in force the powers of section 506 (=section 69 of our Enactment) unless there is some additional evidence to show that the person complained against has done some act or resumed avocations that indicate upon his part an intention to return to his former course of life and to pursue a career of preying on the community. The greatest thief is entitled to a *locus penitentiae* when he has served out his punishment"—*per* Straight, J. in *Empress of India* v. *Nawab*, I.L.R. (1880) 2 All. 835, 838.

"The mere record of certain previous convictions on account of which the person has undergone punishment does not satisfy the requirements of these provisions"—*In re Raja Valad Hussein Sahib*, I.L.R. (1885) 10 Bom. 174.

If a record of past convictions were sufficient it would be open to the Police to arrest a man immediately after his discharge from prison and ask for an order to give security which, besides being a grave injustice, is a *reductio ad absurdum.*

Appeal allowed.

[APPELLATE CIVIL JURISDICTION]
HOWES, J.
September 30, 1935.

M. S. MAHENDRAM.....Appellant

v.

CHAIRMAN SANITARY BOARD, LOWER PERAK .....Respondent

[PERAK MAGISTRATE'S CIVIL APPEAL No. 39 of 1934]

The Sanitary Boards Enactment, 1929, sections 39 aud 53 — Giving notice where holding is assessed for the first time—Objection to attachment made to recover an arrear.

Where a holding is assessed for the first time the giving of a notice to the owner or occupier thereof under section 39 (iii) Sanitary Boards Enactment, 1929, is mandatory and if such notice is not given the inclusion of such holding in the assessment list is bad.

There is nothing in section 53 (i) to require an objector to state his grounds of objection. All he need do, if he disputes the propriety of the attachment, is to apply to the Court for an order to stay the proceedings.

Appellant in person.

I. W. Blelloch, Deputy Public Prosecutor, for the respondent.

Cur. Ad. Vult.

HOWES, J.—This is an appeal from the order of the Magistrate, Telok Anson, made under Section 53 (i) of the Sanitary Boards Enactment, 1929, refusing to stay attachment proceedings in connection with arrears of water rate, conservancy fees &c, in respect of which the appellant's goods had been attached.

The appellant for a number of years ran a school,—the Nagaratnam Memorial School,—and on 20th July, 1927, the then British Resident exempted the school buildings from assessment of rates, by a minute, (of which a copy is produced) "Exemption from assessment approved."

This, apparently, was done by the Resident under section 14 of the then Sanitary Boards Enactment, 1916, which authorised him to exempt schools (*inter alia*) "from payment of any rate",